

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1792 is shown in the following table. Estimated spending would fall within budget functions 800 (general government) and 550 (health).

	By fiscal year, in millions of dollars				
	2000	2001	2002	2003	2004
CHANGES IN REVENUES					
Estimated On-Budget Revenues	200	-3,738	730	686	1,802
Estimated Off-Budget Revenues ¹	-77	-41	0	0	0
Total Changes in Revenues	123	-3,779	730	686	1,802
CHANGES IN DIRECT SPENDING²					
Estimated Budget Authority	85	20	6	6	7
Estimated Outlays	85	20	6	6	7

¹ Represents a loss of taxes to the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds from extending through calendar year 2000 the exclusion of employer-provided educational assistance.

² Implementing the bill would also increase spending subject to appropriation, but CBO estimates that such costs would not be significant.

Sources: Congressional Budget Office and Joint Committee on Taxation.

BASIS OF ESTIMATE

Revenues: All revenue estimates were provided to CBO by JCT.

Direct Spending: Payment to Territories of Rum Excise Tax. Under current law, a tax of \$13.50 per proof gallon is assessed on distilled spirits produced in or brought into the Un-

tied States. The treasuries of Puerto Rico and the Virgin Islands receive \$10.50 of the tax assessed on rum manufactured in either territory. In addition, the territories receive payments, at a similar rate, on all rum imported into the United States from any foreign country. Those payments to Puerto Rico and the Virgin Islands are recorded as outlays in the budget.

Under the bill, the governments of Puerto Rico and the Virgin Islands would receive the full \$13.50 per proof gallon for assessments made between July 1, 1999, and December 31, 2000. Based on recent tax and payment data, CBO estimates that increasing the territories' share of the excise tax would increase direct spending by \$85 million in fiscal year 2000 (including \$18 million in retroactive payments for fiscal year 1999) and \$16 million in fiscal year 2001.

Streptococcus Pneumoniae Vaccine. S. 1792 would add conjugate vaccines against streptococcus pneumoniae to the list of taxable vaccines and thus would allow for federal payments to individuals for injuries related to those vaccines from the National Vaccine Injury Compensation Trust Fund. CBO estimates that this provision would increase outlays for compensation to individuals by \$4 million over the 2000–2004 period. This pro-

vision also would increase federal Medicaid outlays by \$21 million over the 2000–2004 period because Medicaid would be required to pay the excise tax on purchases of vaccines against streptococcus pneumoniae. The federal government purchases about one-half of all vaccines through its Vaccines for Children Program.

In addition, this provision would increase the cost of vaccines purchased under section 317 of the Public Health Service Act. Section 317 would authorize grants to states for the purchase of vaccines under federal contracts with vaccine manufacturers. We estimate that any increase in spending under this section would not be significant and would be subject to the availability of appropriated funds.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in receipts	200	-3,738	730	686	1,802	-1,000	468	427	445	441
Changes in outlays	85	20	6	6	7	7	7	7	7	7

Section 301 specifies that any change in the surplus or deficit resulting from enactment of S. 1792 shall not be counted for purposes of enforcing the pay-as-you-go procedures.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

JCT has determined that the provision that would add streptococcus pneumoniae to the list of taxable vaccines is an intergovernmental mandate. JCT estimates that the cost of this mandate would not exceed the threshold specified in UMRA (\$50 million in 1996, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

JCT has determined that the following provisions of the bill contain private-sector mandates: (1) clarify the tax treatment of income and losses on derivatives, (2) add certain vaccines against streptococcus pneumoniae to the list of taxable vaccines, (3) expand reporting of cancellation of indebtedness income, (4) impose limitation on prefunding of certain employee benefits, (5) limit conversion of character of income from constructive ownership transactions, (6) modify installment method and prohibit its use by accrual method taxpayers, (7) limit use of nonaccrual experience method of accounting, (8) deny charitable contribution deduction for transfers associated with split-dollar insurance arrangements, (9) prevent duplication or acceleration of loss through assumption of certain liabilities, (10) require consistent treatment and provide basis allocation rules for transfers of intangibles in certain nonrecognition transactions, (11) limits distributions by a partnership to a corporate partner of stock in another corporation, (12) prohibit allocations of stock in an S corporation employee stock ownership plan, (13) impose 10 percent vote on value test for real estate investment trusts (REITs), (14) change treatment of income and services provided by taxable REIT subsidiaries, with 20 percent asset limitation,

(15) modify treatment of closely held REITs, and (16) modify estimated tax rules for closely held REITs.

JCT estimates that the costs of the private-sector mandates would exceed the threshold established in UMRA (\$100 million in 1996, adjusted annually for inflation) in each of fiscal years 2000 through 2004, with the amount of such costs ranging from a low of \$383 million in 2004 to a high of \$1,042 million in 2001.

Estimate prepared by: Revenues: Hester Grippando (226–2270), Payment to Territories of Rum Excise Tax: John R. Righter (226–2860), Streptococcus Pneumoniae Vaccine: Jeanne De Sa (226–9010).

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax Analysis.

MISLEADING ADVERTISEMENT FOR THE FAIRNESS IN ASBESTOS COMPENSATION ACT

Mr. LEAHY. Mr. President, I come to the Senate floor today to stand up for a small business in my home state—the Rutland Fire Clay Company of Rutland, VT.

For the past week, a coalition of 240 special interest organizations have run a series of the same paid advertisements in such Washington-based publications as Roll Call and National Journal's Congress Daily AM. The targets of these interest groups in this expensive ad campaign are, of course, the members of this body and of the House of Representatives. The advertisement uses the recent bankruptcy reorganization filing of the Rutland Fire Clay Company to promote the Fairness in Asbestos Compensation Act, S. 758 and H.R. 1283.

Mr. President, here is a copy of this ad. The headline is: "How asbestos litigation ruined a family business." Then in the body of the advertisement is this pullout headline: "Rutland Fire Clay Files For Chap. 11." Throughout the ad is the history of this 116-year-old Vermont firm as reported in the Rutland Herald on October 19, 1999.

Finally, the ad concludes with this statement: "we believe that the interests of the hundreds of large and small businesses affected by this national travesty, their employees, pensioners, communities who depend on them, and their millions of shareholders warrant your support of the Act as well." I ask unanimous consent that the text of this advertisement be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, I am offended by this slick advertisement. It is clear that the executives on Madison Avenue who crafted this ad want law-makers—you, me, and all of our colleagues—to believe that the employees of the Rutland Fire Clay Company support the Fairness in Asbestos Compensation Act and that this bill would have helped the Vermont firm avoid reorganization in bankruptcy. Nothing is further from the truth.

Thomas Martin, who is the President of the Rutland Fire Clay Company, and who is named in the advertisement, has written to me to set the record straight. Mr. Martin writes: "I reviewed the bill and my opinion is it

would not help Rutland Fire Clay Company reduce this [asbestos litigation] burden, nor would it help other small businesses with thousands of claims. . . . Under S. 758 costs would be apportioned to Rutland Fire Clay Company equally, and thus higher, than under the current system."

Mr. Martin continues: "The advertisement's heading gave the impression that our family business would be 'ruined' and that our 22 employees would be out of work. The truth is that we have worked out a consensual bankruptcy plan which recognizes the value of Rutland Fire Clay Company and its employees. No jobs will be lost and we will continue to serve the fireplace and home repair markets as we have for 116 years."

Finally, Mr. Martin notes: "our firm in no way assisted in preparation of the CAR advertisement nor did we have any knowledge of it until your office sent me a copy."

I ask unanimous consent that the full text of Thomas Martin's letter to me be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. LEAHY. I have met with Tom Martin of the Rutland Fire Clay Company and corresponded with him about asbestos litigation. Mr. Martin should be commended for reaching a settlement with his insurers and the trial bar concerning his firm's asbestos problems. Unlike some big businesses that are trying to avoid any accountability for their asbestos responsibilities through national legislation, Mr. Martin and the Rutland Fire Clay Company are trying to do the right thing within the legal system.

Mr. Martin plans to lead the Rutland Fire Clay Company from bankruptcy next year as a stronger firm with a solid financial foundation for the 21st Century. I applaud Tom Martin and the employees of the Rutland Fire Clay Company for their efforts.

Mr. President, I am willing to work with my colleagues on both sides of the aisle and with interested parties to craft fair legislation to help victims and businesses, large and small, affected by asbestos. But exploiting the bankruptcy filing of a small firm in Vermont and using misleading advertisements to promote a flawed bill are not the right ways to advance our consideration of this issue, and they are certainly not an admirable way to attempt to sway opinion in or outside of this body.

I believe the 240 special interest organizations that sponsored this advertisement owe an apology to Tom Martin and the other Vermonters who work for the Rutland Fire Clay Company, and I will remind them of that obligation until they offer that apology.

EXHIBIT No. 1

[From the Rutland Herald, Oct. 19, 1999]

RUTLAND FIRE CLAY FILES FOR CHAP. 11

HOW ASBESTOS LITIGATION RUINED A FAMILY BUSINESS: 22 EMPLOYEES AND 50,000 LAWSUITS

Asbestos lawyers would have you believe that only billion dollar companies are affected by the asbestos nightmare. But in reality, more than 300 small businesses, as well as large ones, find themselves today enmeshed in the asbestos litigation mess. This spiraling litigation—filed largely by non-sick claimants who may have been exposed to asbestos, as have a majority of all Americans, but have no physical symptoms or impairment—continues to drive firms to bankruptcy or its brink.

Just last week, Rutland Fire Clay, a small family-owned Vermont manufacturer of furnace and wood stove repair cements, was forced into bankruptcy as a result of what it termed "the crushing burden of asbestos related lawsuits."

You should know these facts about the Rutland Fire Clay case:

Rutland Fire Clay, with its 22 employees, is a small, 116 year-old family business, in Rutland, Vermont.

The business was started in 1883 by Rufus Perkins and his two sons and has manufactured, for more than 100 years, a cement material for use in the repair of furnaces and residential wood stoves sold through hardware stores. The product originally contained a very small amount of encapsulated asbestos, although Rutland discontinued the use of asbestos in its products almost 30 years ago.

Since 1984, there have been 50,000 asbestos cases filed against the company, and 37,000 remain pending today—most of these cases involving non-sick claimants.

The company has estimated its liability for current and future asbestos claims at \$67 million, with assets of only \$3 million.

Thomas Martin, the firm's president, said in a Rutland press interview last week, that if it weren't for asbestos claims, the 116 year-old company would never have wound up in bankruptcy. He described business as "excellent," with the company expecting a record sales year.

The Rutland Fire Clay case is a stark example of what happens in the asbestos litigation world today. Asbestos lawyers continue to draw from an almost limitless pool of potential defendants by targeting, with the touch of a word processing button, small and large companies—many with only a tangential association to asbestos. These "asbestos" defendants include local building products distributors, home remodeling centers, "mom and pop" hardware stores, and other unsuspecting companies who manufactured, or only distributed, products that may have contained nominal amounts of asbestos in a component part of end products, such as forklifts, cranes, gaskets, grinding wheels, lawnmower engines, etc.

While the principal focus of the bipartisan Fairness in Asbestos Compensation Act is, as it should be, on the rights of deserving asbestos victims, we believe that the interests of the hundreds of large and small businesses affected by this national travesty, their employees, pensioners, communities who depend upon them, and their millions of shareholders warrant your support of the Act as well.

EXHIBIT No. 2

RUTLAND FIRE CLAY COMPANY,
Rutland, VT, October 29, 1999.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: Thank you for sending me the recent advertisement produced by the Coalition for Asbestos Resolution (CAR) that is using our recent bankruptcy filing in its campaign in support of S. 758 and its companion, H.R. 1283.

We presently have over 37,000 lawsuits pending against us and we have approximately \$4 million of insurance and \$2 million in assets. For small firms such as ours with limited remaining insurance and minimal assets, the burden of claims is indeed crushing as quoted in the CAR advertisement. However, I reviewed this bill and my opinion is it would not help Rutland Fire Clay Company reduce this burden, nor would it help any other small business with thousands of claims. As an example under section 601 apportionment of costs for the ARC are addressed. Potential disputes could easily arise between defendants as to their respective share of costs. Our company cannot afford the expense of litigation if disagreement with the large defendants is the result. In addition, our historical costs per claim processed for defense and indemnity have been very low relative to that of other defendant companies. Under S. 758 costs would be apportioned to Rutland Fire Clay Company equally, and thus higher, than under the current system.

The advertisement's headline gave the impression that our family business would be "ruined" and that our 22 employees would be out of work. The truth is that we have worked out a consensual bankruptcy plan which recognizes the value of Rutland Fire Clay Company and its employees. No jobs will be lost and we will continue to serve the fireplace and home repair markets as we have for 116 years.

Lastly, our firm in no way assisted in preparation of the CAR advertisement nor did we have any knowledge of it until our office sent me a copy.

Thank you,
Sincerely,

THOMAS P. MARTIN,
President.

MESSAGE FROM THE HOUSE

At 12:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ARCHER, Mr. BLILEY, Mr. ARMEY, Mr. RANGEL, and Mr. DINGELL as the managers of the conference on the part of the House.